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CONGRESS OF THE U. STATES THURSDAY, SEPTEMBER 26, 1850.

Mr. ATCHISON. What does the senator mean by lands not autable? Lands not for sale, or that will not sell.

Mr. BELL. Lands that will not sell.

Mr. ATCHISON. There is certainly a discrimination against the State of its certainly a discrimination is a sale of the public lands among the different in state of the public lands among the different in state of the public lands among the different in state of the public lands among the different in state of the public lands among the different in state of the public lands among the different in state of the public lands among the different in state of the public lands among the different in state of the public lands among the different in state of the public lands among the different in state of the public lands among the state of the public lands among the state is not state. At the state of the public lands among the state is not state, and it is said that this is the distribution of the lands. If it has a state of the public lands are not suited in quality in a state, the state of the public lands are not suited in quality in a state, the quantity to which said State and a sea of the public lands that of the public lands be divided among the States are, the purposes of this charity, and then you can go into a state of the public lands the different in the certain of the public lands be divided among the States are, the purposes of this charity, and then you can go into a state of the public lands the different in the certain of the public lands be divided among the State of Market and the state of the public lands the different is not state of the public lands and the public lands, and the process of this charity and the public lands, and the public lands, and the public lands and the public lands, and the public lands and the public lands, and the public lands and public the public lands and the public lands and public the public lands and the public lands and the public lands and

favor of the States of Virginia, New York, and Pennsylvania.

In the first section of the bill there is a proviso that the area of no State shall be computed as more than 50,000 square miles. It so happens that the area of Missouri is 67,000 square miles.

Mr. BELL, (in his seat.) And Texas is 250,000, and California is still more. Now, let us have fair-dealing in this matter. California is capable of sustaining perhaps five millions of people, and Texas something more. The State of Missouri can certainly sustain as many as the State of Missouri can certainly sustain as many as the state of Missouri that, sooner or later, each quarter-section would sustain one family. I have heard the same thing said of Illinois. Here is certainly a discrimination against these western States. I move to lay the bill upon the table.

The year and nays were demanded and ordered.

Mr. DICKINSON. In order to take up the appropriation bills, I shall have to vote for it.

The question, being taken, resulted as follows:
YEAS—Messrs Atchison, Barnwell, Benton, Butler,
Chase, Davis of Mississippi, Dickinson, Dodge of Wisconsin, Dodge of Iowa, Downs, Fremont Gwin, Hou ton,
Houtet, King, Mason, Morton, Pratt, Rusk, Sebastian,
Soule, Walker, and Yulee—23
NAYS—Messrs. Baldwin, Bell, Berrien, Clarke, Cooper,
Davia of Massachusetts, Dawson, Davion, Ewing, Foote,
Greene, Hale, Manguon, Norra, Peace, Seward, Shields,
Sunth, Spruance, Stargeon, Underwood, Wales, and
Winthrop—23.

than a vote against it. There is no time to consider it. What can we expect of a bill sprung upon us at this period of the session? What is the limitation to prevent the whole of these lands being taken in one State? It is referred to the President—is it? Show me the part of it in which it is referred to the President. I did not expect that any one would be serious in taking up such a bill.

INDIAN APPROPRIATION BILL.

Indian Department, which had been laid upon the table this morning.

Mr. GWIN. I beg leave to make a motion to make the California bills the special order for this evening, instead of executive business.

The PRESIDENT. The resolution is imperative.
The motion of Mr. PEARCE was agreed to; and The Senate resumed the consideration of the bill making appropriation for the current and contingent expenses of the Indian department, and to enable the President of the United States to conclude treaties with various Indian tribes for the year ending June 30, 1951.

he explanation.

Mr. PEARCE. This appropriation was before the Committee on Finance, and was rejected by us for this reason: There was an Indian agent appointed by the government of the United States for this tribe. These The state of the s

6th. Deposite made with agent by Polly Jami-

States. Mr. PEARCE. The United States never submitted themselves to be the guardian of these Indians for this purpose. They never gave any authority to their agent to receive, on their liability, these moneys, the individual property of members of the tribe, and which were derived from other sources than the revenue of the United

rived from other sources than the revenue of the United States.

Sir, there is no fact, which I am able to ascertain, which shows that these Indians had any right to cousider the United States responsible for the acts of the man who happened to be their agent, other than those he performed while discharging the duties of agent. He was their agent for certain specific purposes. But there was no law by which he was authorized to be their agent for other purposes, and no instructions from the department to perform any other than the specified duties as agent of the government. There is no fact from which such an implication can be drawn. It is extremely probable that the Indians had confidence in this man, because of his personal and official character. It was their mistake that that confidence was misplaced; and are the United States bound to make good the liabilities of an agent of a tribe of Iudians for the custody of funds other than those he derives from the government? Suppose you carry this principle out: who can tell what amount of liabilities will be brought against us? We have very extensive negotiations with Indian

be was not their agent for the transaction of the other to this tribe. These him their agent for the their own, other than their own, other than the United States. There is State of New York, proceeds of the sales of the sales of the sales of also which had been in all income. This fund, its, was intrusted to to fit the government for or the government for the government for the distribution of the government for the tribe, and the fit of the government for the government for the great mistake of the honorable was in this: This money was the government for the great mistake of the honorable and the fit of the great mistake of the honorable and the fit of the great mistake of the honorable and the fit of the great mistake of the honorable and the fit of the great mistake of the honorable and the fit of the great mistake of the honorable and the fit of the great mistake of the honorable and the fit of the great mistake of the honorable and the fit of the great mistake of the kname of the fit of the fit

which the Indians sold to Measrs. Phelps & Gorham. They paid this money not to the United States, but to some bank, for the benefit of the Indians. Another portion of it consisted of an annuity, due from the State of State of New York, of \$500. For two years this agent received that money from the State of New York. That is a part of the claim.

But, be it what it may, no portion of these moneys ever came from the United States government, nor were ever payable by the United States government, nor were ever payable by the United States government to these Indians. They consisted of funds over which the government had no control, but over which the Indians had control. This man, who was the Indian agent, received these moneys, not by virtue of any authority as Indian agent—for the government had no authority—but the Indians, having confidence in the man, allowed him to receive these moneys, and through that agent they were lost. Well, then, there is also some \$2,000 intrusted to this agent by an individual of the tribe, (Polly Jamison,) which we are called upon to make up among the other other sums. Now, I ask whether this is not a bond upon which the agent could be sued by the Indians and held liable?

Mr. WALES. The government intended to sue the bond.

Mr. PEARCE. But could the government recover one stiver of this bond? Not a cent.

The question being taken on the amendment, it was rejected.

Mr. RUSK moved to strike out the word "two" in

sation of special agents for the table.

Mr. PEARCE. I will state that, as the sum recommended to be appropriated by the committee, has been enlarged by the action of the Senate, there can be no objection to increasing the number of agents.

The PRESIDENT. This question must be entertained by common consent.

INDIAN AGENT AND INTERPRETERS IN TEXAS. Mr. RUSK. I have also another amendment furnished the by the Indian department, for the purpose of paying rrearages due to an agent already in Texas:

"For compensation to an agent and two interpretors in Texas, authorized by the act of the 3d of March, 1817, and subsequent acts, #3,200."

Mr. PEARCE. I hope that amendment will not pass in the shape in which it is offered. It is prospective in its character. It had better be amended by saying, "payment for arrests."

its character. It had better be amended by saying, "payment for arcears."

Mr. RUSK. I have no objection to that modification. I have offered it as it was furnished to me by the Indian bureau. I will modify it as the senator suggests, and make it "for payment of arrears."

The question being taken, and about to be stated, Mr. HUNTER having voted in the negative, Mr. RUSK hoped that the senator from Virginia would state his reason for his opposition. By the act of 1847, and subsequent acts, Congress authorized the employment of an agent for the Indians in Texas, and this is the amount of arrearages due to that agent and his interpreters, as furnished to him by the Indian bureau, with a recommendation that it be paid.

Mr. HUNTER. I think we have appropriated for everything that has been estimated by the Indian department. I appeal to the senator from Maryland if this is a proper amendment.

proper amendment.

Mr. PEARCE. I think the senator from Virginia is mistaken in regard to our having appropriated for everything sent to us by the department. This was sent to us, and rejected because it was prospective in its character. It is now modified so as to pay only for arrears. It these be arrears, it is right they should be paid.

Mr. HUNTER withdrew his objection, and the amendment was agreed to.

Mr. ATCHISON offered the following amendment

Mr. ATCHISON offered the following amendment:

"To pay the Central Bank of Georgia, assivnee of H. W. Jernigan & Co., and others, the sum of \$21,042."

Mr. ATCHISON. As a short method of explaining this amendment, I will beg leave to read the following report of the Committee on Indian Affairs of the Senate, submitted September 10, 1850:

"The Committee on Indian Affairs, to whom was referred the memorial of the Central Bank of Georgia, as assignee of Henry W. Jernigan, H. W. Jernigan, & Co., of Jernigan, Gachet, & Co., and Hill, Jernigan, & Co., of Jernigan, Gachet, & Co., and Hill, Jernigan, & Co., claiming indemnity for spoliations of the Creek Indians, at Roanoke, on the 15th of May, 1836, report:

"That from the reports of commissioners of the United States appointed to investigate the losses of the citizens of Georgia and Alabama from the depredations of the Creek Indians, made in the year 1837, (and now on the file in the office of the Commissioner of Indian Affairs,) it appears that Henry W. Jernigan & Co. sustained losses by the depredations of the Creek Indians, on the 15th of May, 1836, at their ware and storehouses, at Roanoke, in the county of Siewart, State of Georgia, as charged and proved by them, amounting to the sum of \$18,90, and by the award of the commissioners to the sum of \$14,65; that Jernigan, Gachet, & Co., at the same time and place, and from the same causes, lost, as by them charged and proved, and by the causes, lost, as the same time and place, and from like causes, lost, as the same time and place, and from like causes, lost, as the same time and place, and from like causes, lost, as the same time and place, and from like causes, lost, as by them and proved, and by the commissioners warded, the sum of \$500; that Henry W. Jernigan, it has same time and place, and from like causes, lost, as by them and proved, and by the causes, lost, as hy them and proved, and by the causes, lost, as hy them charged and proved, and by the causes, lost, as hy them charged and proved, and by the caus

TO OUR SUBSCRIBERS

Mr. ATCHISON. Yes, such a distinguished one, Mr. ATCHISON. Yes, such a distinguished one, should take such a view of this matter, is to me quite as surprising as anything I have said could have been tehm. Why, sir, what drew Santa Anna and his army te Buena Vista I twas the very fact that the American army was stationed at or near that place. Why, sir, is there anything more common in war? Is it not every day's experience that where hoetile troops are stationed there their antagonists march to meet them? This is always the case, or there never would be any fighting, unless one party sought the other. Why, sir, the strategy, the tactics of the senator from Mississippi are strange indeed; they are new, and will save the necessity of a world's peace convention; for if we have armies in the field, according to this theory, they will never seek each other. It is a most curious fact about wars, either of ancient or modern times. Why, sir, the senator should have a patent for this discovery.

But, in all seriousness, the principle embraced in this ameadment has been recognised by law. We have a law recognising this very principle, that when private property is destroyed by the enemy because our troops are in possession of the premises, the government. Mr. PEARCE. The case presented by the senator from Missouri affords an illustration of what would be a very extraordinary principle in physics—that one body having a strong attraction for another, and that other not only having an attraction for this one, but an absolute repulsion, should be drawn towards it. For it appears that these Indians, according to the evidence now submitted, we e attracted by the preveace of the United State troops when the things are also any the submitted, we called upon to put into an appropriation for a patent, but in any appears that the endians, according to the evidence now submitted, we called upon to put into an appropriation for a patent. But if it was permitted upon in the usual former many the property of the prevention of private co

Mr. ATCHISON. Every man was a soldier. [Laughter.] Then at Fort Meigs, during the last war. Why, had there been no troops at Fort Meigs, we would not have the detail that our armies sustained there.